

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                       |   |                              |
|-----------------------|---|------------------------------|
| MICHAEL WINSTON,      | ) |                              |
|                       | ) |                              |
| Petitioner,           | ) |                              |
|                       | ) |                              |
| v.                    | ) | Civil Action No. 10-215 Erie |
|                       | ) |                              |
| COMMONWEALTH, et al., | ) |                              |
|                       | ) |                              |
| Respondents.          | ) |                              |

**MEMORANDUM ORDER**

This habeas corpus action was received by the Clerk of Court on September 1, 2010 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1) and Rule 72 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [ECF No. 36], filed on April 11, 2013, recommended that Petitioner's case be dismissed for failure to prosecute due to his failure to comply with this Court's Order dated March 13, 2013 [ECF No. 13] directing him to file an amended petition on the standard form and name the proper Respondents on or before April 2, 2013. Petitioner was allowed fourteen (14) days from the date of service to file objections and no objections were filed.

After de novo review of the documents in the case, together with the Report and Recommendation,

AND NOW, this 6<sup>th</sup> day of May, 2013;

IT IS HEREBY ORDERED that the Petitioner's case is DISMISSED without prejudice for failure to prosecute.

The Report and Recommendation [ECF No. 36] of Magistrate Judge Baxter, filed on April 11, 2013, is adopted as the opinion of the Court.

The Clerk of Courts is directed to close the case.

s/ Sean J. McLaughlin

United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge